

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER concerning the application by Texas LNG Brownsville LLC for new Air Quality Permit Number 139561; TCEQ Docket No. 2019-0624-AIR

On June 12, 2019, the Texas Commission on Environmental Quality (“Commission”) considered during its open meeting the requests for a contested case hearing and the request for reconsideration concerning the application by Texas LNG Brownsville LLC for new Air Quality Permit Number 139561. The Commission received timely hearing requests that were not withdrawn from the following persons or entities: City of Port Isabel, City of South Padre Island, Vecinos Para el Bienestar de la Comunidad Costera (“VBCC”), Shrimpers and Fishermen of the RGV (“SFRGV”), Long Island Village Owners Association, and John Henry Young. The Commission received one timely request for reconsideration from John Henry Young. The requests were evaluated under the requirements in the applicable statutes and Commission rules, including 30 Texas Administrative Code Chapter 55. The Commission also considered the responses to the requests filed by the Executive Director and the Office of Public Interest Counsel; the replies filed by VBCC, SFRGV, the City of Port Isabel, and the City of South Padre Island; all timely public comment; and the Executive Director’s Response to Comments.

After an evaluation of all relevant filings, the Commission determined that the City of Port Isabel qualifies an affected person as provided by applicable law. The Commission also found that the remaining hearing requesters did not demonstrate their qualifications as affected persons as provided by applicable law and the Commission determined to deny the other hearing requests. The Commission also determined to deny the request for reconsideration. The Commission next determined whether the request for hearing filed by the City of Port Isabel

raised disputed issues of fact raised by her during the comment period which are relevant and material to its decision on the application. The Commission determined that the following issues raised by the City of Port Isabel are disputed facts raised during the comment period in their comments that are relevant and material to its decision on the application and directed that these issues be referred to the State Office of Administrative Hearings (“SOAH”) for a contested case hearing: 1) whether the draft permit contains adequate conditions to protect against adverse effects on the health and safety of the Requester’s residences and employees, including sensitive subgroups; 2) whether the draft permit contains adequate conditions to protect against adverse effects on plants, marine and aquatic organisms, animals, wildlife, and sensitive receptors within the Requester’s corporate and ETJ boundaries; 3) whether the Application properly calculated and addressed potential emission sources, emission rates, and background concentrations to establish appropriate conditions in the draft permit; and 4) whether the draft permit contains adequate conditions to protect against nuisance dust conditions affecting the Requester’s property during operations. The Commission specified a maximum duration for the contested case hearing of 150 days from the first day of the preliminary hearing to the date the proposal for decision is issued by SOAH. The Commission determined to refer the matter to the Commission’s Alternative Dispute Resolution (“ADR”) program concurrently with the SOAH scheduling process.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. The request for a contested case hearing filed by the City of Port Isabel is GRANTED;
2. All other hearing requests and the request for reconsideration are DENIED;
3. The Chief Clerk shall REFER to SOAH the following issues for a contested case hearing on the application:
 - i) Whether the draft permit contains adequate conditions to protect against adverse effects on the health and safety of the Requester’s residences and employees, including sensitive subgroups;
 - ii) Whether the draft permit contains adequate conditions to protect against adverse effects on plants, marine and aquatic organisms, animals, wildlife, and sensitive receptors within the Requester’s corporate and ETJ boundaries;

- iii) Whether the Application properly calculated and addressed potential emission sources, emission rates, and background concentrations to establish appropriate conditions in the draft permit; and
- iv) Whether the draft permit contains adequate conditions to protect against nuisance dust conditions affecting the Requester's property during operations;

4. The maximum duration of the hearing is SET at 150 days from the first day of the preliminary hearing to the date the proposal for decision is issued by the SOAH;

5. The matter is REFERRED to the Commission's ADR program concurrently with the SOAH scheduling process; and

6. If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue date: June 18, 2019

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Jon Niermann, Chairman